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10/660,988	09/12/2003	Frank Camaioni	402-191	6098

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EXAMINER

CHIN SHUE, ALVIN C

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/660,988
Filing Date: September 12, 2003
Appellant(s): CAMAIONI, FRANK

MAILED

AUG 07 2006

GROUP 3600

Attorney Stone
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/28/06 appealing from the Office action mailed 8/18/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

1,672,020	Brugner	6-1928
2,118,236	Lee (United Kingdom)	10-1983
124,940	Edmunds	3-1872
4,519,471	Hulme et al.	5-1985
2,471,110	Jenkins	5-1949
1,600,572	Bauer	9-1926
2,720,354	Stanley	10-1955
146,274	Parent	1-1874

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11,12 and 14-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of the claims 11 and 18 stated that only the extension is being claimed, therefore limitations with respect to the conventional ladder, e.g. a greater width than the conventional ladder, and the sidewalls abuts the sidewalls of the ladder, as set forth in claim 12, renders the claims indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11,12,14-16 and 18-20, as understood and assuming to be definite and claiming only the extension, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brugner. Brugner shows an extension 29. The extension is capable of being used with conventional ladders of different widths, e.g., conventional ladders having a width less than or abutting Brugner's extension rails.

Claims 2-8,11,12 and 14-21, as understood and assuming to be definite and claiming only the extension, as set forth in claims 11 and 18 and the combination as set forth in claim 21, are rejected under 35 U.S.C. 102(b) as being clearly

anticipated by GB pat. '236 to Lee. Lee shows an extension 10 having rails 11 connected by rungs 14,15 and support element 18. The extension is capable of being used with conventional ladders having a width abutting Lee's extension sidewalls, as set forth in claim 12.

Claims 2-5,12 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hulme et al. Hulme in fig.7 shows a ladder extension section 120 with engaging means at 164 and a ladder 110.

Claims 2-5,12 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Edmonds. Edmonds shows engaging means at C,E,F.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7,12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins in view of Lee. Jenkins shows the claimed ladder with the exception of the claimed first and second pairs of engaging elements. Lee shows an extension first and second pairs of engaging elements 24,25 to enable lateral and vertical spaced rung engagement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jenkins to

comprise engagement elements, as taught by Lee, in lieu of his engaging means at 19, to enable engagement to the rungs of his ladder.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brugner in view of Bauer. Brugner shows the claimed extension with the exception of the support element. Bauer shows a support element at 70. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a support element, as taught by Bauer, to Brugner for bracing his extension against a vertical support.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edmonds in view of Stanley. Edmonds shows the claimed ladder with the exception of the support element. Stanley in fig.3 shows a support element. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the extension of Edward with a support element, as taught by Stanley, for spacing his extension from a wall. Furthermore, to place the support element to extend in the direction of the means for engagement depending on the placement of the extension on the ladder in the slanted position, and to position the support element at a midpoint of the extension depending on the height of the supported contact with a wall desired, would have been an obvious mechanical expedient to one of ordinary skill in the ladder art.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edmonds in view of Parent. Edmonds shows the claimed ladder with the exception of the first and second pairs of engaging elements. Parent shows an extension first and second pairs of engaging elements c,e to enable lateral and vertical spaced rung engagement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the extension of Edward with an additional of his engagement element C,E,F laterally spaced, as taught by Parent, to enable a balanced enhance engagement.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edmonds in view of Lee. Edmonds shows the claimed ladder with the exception of the first and second pairs of engaging elements. Lee shows an extension first and second pairs of engaging elements 24,25 to enable lateral and vertical spaced rung engagement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the extension of Edward with to comprise engagement elements, as taught by Lee, in lieu of his, to enable a balanced enhance engagement.

(10) Response to Argument

With respect to claims 11,12 and 14-20 under 35 U.S.C. 112, it is unclear what are the bounds of the inventions sought by Appellant.

Hypothetically if the claims were to be allowed due to the positive limitations to the combination with a conventional ladder, is this what was sought by Appellant? As evidence to this confusion not only to the examiner but to Appellant, note Appellants arguments expressively stating that only the extension, as set forth in the preamble of claims 11 and 18, is desired to be protected, while Appellant's arguments for patentability are directed only to the combination with a conventional ladder.

With respect to claims 11 and 18, it is noted that Brugner teaches an extension 29 with means for engaging rungs at 30, thus meeting all the claimed limitations of the extension, Brugner's extension 29 is "capable" of being attached to a conventional ladder having a width less than that of his extension thus satisfying the requirement of 35 U.S.C. 102(b), e.g. of a conventional ladder having a construction wherein Brugner's extension is "capable" of attached to, note Kennedy's Pat. 2,372,003 ladder section 11 having rungs 22,23 extending beyond his rails.

With respect to claims 11, 18 and 21, Appellant argues that Lee does not teach an extension as disclosed, it is noted that with respect to the claimed invention element 10 of Lee is an extension for a ladder, wherein his extension comprise sides walls at 11 interconnected by elements 14 and 15 wherein these

interconnecting elements to spaced rail like elements, such as elements 11, are commonly referred to as rungs, furthermore, these elements are capable of being stepped on, thus Lee teaches all the claimed limitations of claims 11,18 and 21, thus satisfying the requirement of 35 U.S. C. 102(b).

With respect to claim 21, Hulme et al. in fig. 7, teaches the claimed extension at 120 for extending a ladder 100. The claim did not limit the extension to be mounted above the ladder as argued by Appellant.

With respect to claim 21, Edmonds shows a ladder extension B having a means C thereon for engaging at least one rung of ladder A, note element F, E. thus satisfying the requirement of 35 U.S. C. 102(b).

With respect to the rejection of Jenkins in view of Lee, such was applied to meet the limitations of dependent claims and will not be argued by the examiner, as the above rejections to the independent will suffice.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


ACS

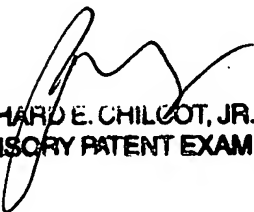


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